UNITED STATES DISTRICT COURT		
SOUTHERN DISTRICT OF NEW YORK		
TING YAO LIN, FANG LIN, SHENG LAN LI, MU LEI XIE, TING JIA XIE, and XIE XIN YONG,	· X : :	
Plaintiffs,	:	08 Civ. 6071 (SAS)
V.	:	
HAYASHI YA II, INC. d/b/a HAYASHI YA, HAYASHI YA OF 9 AVENUE, LLC d/b/a HAYASHI YA, FENG LIN, and YANG QING,	: : : : : : : : : : : : : : : : : : : :	
Defendants.	: :	
	·X	

AFFIDAVIT OF ROBERT DUNN IN SUPPORT OF PLAINTIFFS' APPLICATION FOR ENTRY OF DEFAULT JUDGMENT AGAINST ALL DEFENDANTS

STATE OF NEW YORK)	
)	SS.:
COUNTY OF NEW YORK)	

Robert Dunn, being duly sworn, deposes and says:

- I am counsel for Plaintiffs in this matter and submit this affidavit in support of Plaintiffs' application for a default judgment against Defendants Hayashi Ya II, Inc., Hayashi Ya of 9 Avenue, LLC, Feng Lin and Yang Qing.
- 2. I make this affidavit pursuant to Rule 55.2 of the Civil Rules for the District of New York and Rule IV(G) of the Individual Rules and Procedures of Judge Shira A. Scheindlin.
- The Plaintiffs filed this action against Defendants seeking damages for
 Defendants' failure to pay Plaintiffs minimum wages, overtime wages, or spread-of-hours wages

as required under federal and New York state law. The Defendants also failed to reimburse Plaintiffs for business expenses, such as the costs of purchasing and maintaining delivery bicycles, and withheld parts of tips in violation of federal and New York state law. (Exhibit A.) Finally, Defendants terminated Plaintiffs' employment in retaliation for the Plaintiffs' complaints about the Defendants' violations of state and federal labor law, and thus the Plaintiffs seek punitive damages under New York state law. (Ex. A.)

- 4. This Court has subject matter jurisdiction over Plaintiffs' federal claims pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216(b) and 28 U.S.C. § 1331. (Ex. A at ¶ 4.) This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367. (Ex. A at ¶ 5.)
- 5. This Court has personal jurisdiction over all Defendants as they were each served the Summons and Complaint personally within New York state. (Ex. B.)
- 6. On July 9, 2008 each Defendant was served copies of the Summons and Complaint, the Individual Rules and Procedures of Judge Shira A. Scheindlin, ECF procedures. and Individual Practices of Magistrate Judge Andrew J. Peck. (Ex. B.) The time within which Defendants had to answer or otherwise respond to the Complaint has expired, and Defendants have failed to plead or otherwise defend the above-captioned action. (Ex. C.)
- 7. On August 19, 2008, J. Michael McMahon, Clerk of the United States District Court for the Southern District of New York, signed a "Clerk's Certificate" for each Defendant, which noted the defaults of each of the Defendants. (Ex. C.)
- 8. To my knowledge, the individual Defendants -- Yang Qing and Feng Lin -- are not infants, in the military, or incompetent persons.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: New York, New York September 5, 2008

By: Robert Dunn

(robert.dunn@skadden.com)

Sworn to and subscribed to before me this 5th day of

September, 2008

GAIL F. WRIGHT
Notary Public, State of New York
No. 30-4653780
Qualified in Nassau County
Certificate Filed in New York County
Commission Expires December 31, 20

EXHIBIT A

ORIGINAL

%AO 440 (Rev. 8/01) Summons in a Civil Action

JUDGE SCHEINDLIN

UNITED STATES DISTRICT COURT

Southern	District of	New York
Tin Yao Lin, Fang Lin, Sheng Lan Li, Mu Lei Xie, Ting Jia Xie, and Xie Xin Yong V. Hayashi Ya II, Inc. d/b/a Hayashi Ya, Hayashi Ya of 9 Avenue, LLC d/b/a Hayashi Ya, Feng Lin, and Yang Qing	SU CASE NUM	MMONS IN A CIVIL ACTION BER: CIV 6071
TO: (Name and address of Defendant)		
Hayashi Ya II, Inc., 857 Ninth A Hayashi Ya of 9 Avenue, LLC, 8		
YOU ARE HEREBY SUMMONED and req Robert Dunn, Four Times Squa		
an answer to the complaint which is served on you we of this summons on you, exclusive of the day of service for the relief demanded in the complaint. Any answer Clerk of this Court within a reasonable period of times.	ce. If you fail to do so er that you serve on t	, judgment by default will be taken against you
CLERK (By) DEPUTY CLERK L (By) DEPUTY CLERK L	DATE	ри 02 2008

SAO 440 (Rev. 8/01) Summons in a Civil Action	of the spirit is	- 4 15 24 24					
UNITED STATES DISTRICT COURT							
Southern	District of		New York				
Tin Yao Lin, Fang Lin, Sheng Lan Li, Mu Lei Xie, Ting Jia Xie, and Xie Xin Yong V. Hayashi Ya II, Inc. d/b/a Hayashi Ya, Hayashi Ya of 9 Avenue, LLC d/b/a Hayashi Ya, Feng Lin, and Yang Qing	CASENO	D MINI	NA CIVIL ACTION				
TO: (Name and address of Defendant) Feng Lin, 857 Ninth Ave., New Y	York NY 10019						
YOU ARE HEREBY SUMMONED and req Robert Dunn, Four Times Square	uired to serve on P						
an answer to the complaint which is served on you wi of this summons on you, exclusive of the day of servic for the relief demanded in the complaint. Any answe Clerk of this Court within a reasonable period of time	e. If you fail to do	so judgment by	days after s default will be taken agai his action must be filed v	nat was			
J. MICHAEL McMAHOL	V	III	0.2.2008				

DATE

CLERK

ORIGINAL

%AO 440 (Rev. 8/01) Summons in a Civil Action			OHIGHAL
UNITED STA	TES DISTR	ICT COURT	
Southern	District of	New Y	'ork
Tin Yao Lin, Fang Lin, Sheng Lan Li, Mu Lei Xie, Ting Jia Xie, and Xie Xin Yong			
Colores September 1985 September 198		SUMMONS IN A CIV	VIL ACTION
V. Hayashi Ya II, Inc. d/b/a Hayashi Ya, Hayashi Ya			
of 9 Avenue, LLC d/b/a Hayashi Ya, Feng Lin,			
and Yang Qing	CASE NU	JMBER:	
		and the second of	10.00
		84	CL / ·
TO: (Name and address of Defendant)			
Yang Qing, 857 Ninth Ave., New	w York NV 10010		
rang ang, 607 Militi Ave., Nei	W 101K, 141, 10019		
VOLLABE HEREBY CURVICINE			
YOU ARE HEREBY SUMMONED and req			Y (name and address)
Robert Dunn, Four Times Squa	re, Rm 40-216, Ne	ew York, NY, 10036	
		40	
	erox a week		>
an answer to the complaint which is served on you w of this summons on you, exclusive of the day of service	ith this summons,	within 20	days after service
for the relief demanded in the complaint. Any answ	er that you serve	on the parties to this action	on must be filed with the
Clerk of this Court within a reasonable period of tim	e after service.	• 10	-
J. MICHAEL M. MAHO!	J	11.11.00	0000
1		JUL 02	ZUU8
CLERK 11 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	DATE		

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	Y
TING YAO LIN, FANG LIN, SHENG LAN LI, MU LEI XIE, TING JIA XIE. and XIE XIN YONG, Plaintiffs,	: Civil No.
V.	COMPLAINT
HAYASHI YA II, INC. d/b/a HAYASHI YA, HAYASHI YA OF 9 AVENUE, LLC d/b/a HAYASHI YA, FENG LIN, and YANG QING,	MI 67 5008
Defendants.	To ne a per !
	No. of the contract of the con

PRELIMINARY STATEMENT

- Plaintiffs are former employees of Defendants, who owned and operated a sushi
 restaurant in Manhattan, New York.
- 2. Although Plaintiffs regularly worked in excess of ten hours per day, six days per week, Defendants failed to pay Plaintiffs minimum wages, overtime wages, or spread-of-hours wages as required under federal and New York state law. Defendants failed to reimburse Plaintiffs for the costs of purchasing and maintaining required delivery bicycles and other business expenses, in violation of federal and New York state law. In addition, Defendants withheld parts of Plaintiffs' tips, in violation of New York state law. Finally, Defendants fired Plaintiffs in retaliation for asserting their rights under federal and state wage and hour laws.
- Plaintiffs bring their claims for the period from approximately January 2006 to approximately January 2008.

JURISDICTION AND VENUE

This Court has jurisdiction over Plaintiffs' federal claims pursuant to the Fair

Labor Standards Act ("FLSA"), 29 U.S.C. § 216(b), and 28 U.S.C. § 1331.

- 5. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.
- 6. Venue is proper in the Southern District of New York pursuant to 28 U.S.C.
 § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this District.

THE PARTIES

Plaintiffs

- Plaintiff Ting Yao Lin was employed by Defendants as a delivery worker from approximately January 2006 until he was discharged in approximately January 2008.
- Plaintiff Fang Lin was employed by Defendants as a sushi chef from approximately June 2004 until he was discharged in approximately January 2008.
- Plaintiff Xie Xin Yong was employed by Defendants as delivery coordinator from approximately January 2006 until he was discharged in approximately January 2008.
- Plaintiff Mu Lei Xie was employed by Defendants as a delivery worker from approximately April 2007 until he was discharged in approximately January 2008.
- 11. Plaintiff Ting Jia Xie was employed by Defendants as a delivery worker from approximately November 2003 until he was discharged in approximately January 2008.
- 12. Plaintiff Sheng Lan Li was employed by Defendants as a waitress and cashier from approximately November 2005 until she was discharged in approximately January 2008.

Defendants

 Defendant Hayashi Ya II, Inc. is a corporation organized under the laws of New York and is located at 857 Ninth Avenue, New York, NY 10019. On information and belief, Case 1:08-cv-06071-SAS

- 14. Defendant Hayashi Ya of 9 Avenue, LLC is a limited liability company organized under the laws of New York and is located at 857 Ninth Avenue, New York, NY 10019. On information and belief, Defendant Hayashi Ya of 9 Avenue, LLC does business as "Hayashi Ya," a sushi restaurant located at 857 Ninth Avenue, New York, NY 10019.
- 15. On information and belief, Defendant Yang Qing is an individual residing in New York and is an owner and operator of Defendants Hayashi Ya II, Inc. and Hayashi Ya of 9 Avenue, LLC.
- 16. On information and belief, Defendant Feng Lin is an individual residing in New York and is an owner and operator of Defendants Hayashi Ya II, Inc. and Hayashi Ya of 9 Avenue, LLC.
- 17. On information and belief, at all times relevant to the allegations herein,
 Defendant Yang Qing participated in the management of Defendants Hayashi Ya II, Inc. and
 Hayashi Ya of 9 Avenue, LLC (hereinafter "Hayashi Ya") and had the power to hire and fire
 Hayashi Ya employees, to establish wages, to set work schedules, and to maintain employment records.
- 18. On information and belief, at all times relevant to the allegations herein,

 Defendant Feng Lin participated in the management of Hayashi Ya and had the power to hire
 and fire Hayashi Ya employees, to establish wages, to set work schedules, and to maintain
 employment records.
- 19. On information and belief, at all times relevant to the allegations herein, Hayashi Ya qualified as an enterprise within the meaning of the FLSA, 29 U.S.C. § 203(r).

20. On information and belief, Hayashi Ya is at present, and has been at all times relevant to this action, an enterprise engaged in interstate commerce within the meaning of the FLSA in that it (i) has and has had employees engage in commerce or in the production of goods for commerce, and handle, sell or otherwise work on goods or materials that have been moved in or produced for commerce by any person; and (ii) has and has had an annual gross volume of sales of not less than \$500,000.

STATEMENT OF FACTS

- 21. At all times relevant to this action, Plaintiffs were Defendants' employees within the meaning of the FLSA, 29 U.S.C. § 203(e), and the New York Labor Law ("NYLL") §§ 190(2), 651(5).
- 22. At all times relevant to this action, Defendants were Plaintiffs' employers within the meaning of the FLSA, 29 U.S.C. § 203(d), and the NYLL §§ 190(3), 651(6).
- At all times relevant to this action, Plaintiffs were employed by Defendants at the Hayashi Ya sushi restaurant.
 - 24. Defendants did not compensate Plaintiffs as required by law.
- 25. The FLSA, 29 U.S.C. § 206, required employees to be paid a minimum wage of at least \$5.15 per hour prior to July 24, 2007, and a minimum wage of at least \$5.85 per hour between July 24, 2007 and the present.
- 26. The NYLL § 652 required employees to be paid a minimum wage of at least \$6.00 per hour prior to December 31, 2005, a minimum wage of \$6.75 per hour between January 1, 2006 and December 31, 2006, and a minimum wage of \$7.15 per hour between January 1, 2007 and the present.

- 27. Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie received monthly salaries from Defendants that averaged as low as approximately \$3.08 per hour.
- 28. Defendants willfully paid Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie wages below the statutory minimums required by the FLSA and/or the NYLL.
- 29. Prior to approximately January 2007, Defendants retained for themselves all tips that customers left for Plaintiffs Fang Lin and Sheng Lan Li.
- 30. Beginning in approximately January 2007, Defendants required Plaintiffs Fang Lin and Sheng Lan Li to participate in a tip-sharing arrangement in which Defendants retained for themselves part of the tips that customers left for these Plaintiffs.
 - All Plaintiffs regularly worked in excess of forty hours per week. 31.
- Defendants willfully failed to pay Plaintiffs overtime wages at a rate of one and 32. one-half times their regular hourly rate for hours worked in excess of forty hours per week.
- All Plaintiffs' shifts regularly spanned more than ten hours per day, six days per 33. week, and frequently spanned more than twelve hours per day.
- 34. Defendants willfully failed to pay Plaintiffs an extra hour's pay at the minimum wage ("spread-of-hours wages") for each day Plaintiffs' shifts spanned more than ten hours per day.
- Defendants required Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie to 35. purchase and to maintain bicycles in order to make deliveries. These Plaintiffs had to pay for the maintenance of the bicycles and other business expenses incurred during the course of their employment as delivery workers by Defendants.
- 36. Defendants did not reimburse these Plaintiffs for the costs and expenses described in paragraph 35.

- 37. The costs and expenses described in paragraph 35 were primarily for the benefit of Defendants and constituted de facto wage deductions, further driving Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie's wages below the statutory minimums.
- Defendants provided Plaintiffs Fang Lin and Sheng Lan Li with clothing that was 38. required to be worn as sushi chef and waitress uniforms, respectively, and that was not worn outside of their employment at Hayashi Ya. The clothing provided by Defendants had the Hayashi Ya name on it.
- Plaintiffs Fang Lin and Sheng Lan Li were required to pay for the maintenance of 39. the clothing described in paragraph 38 during the course of their employment by Defendants.
- On information and belief, Defendants willfully failed to inform Plaintiffs of the 40. FLSA's wage provisions, including the manner in which the wages for a tipped employee are determined pursuant to 29 U.S.C. § 203(m).
- 41. On information and belief, Defendants willfully failed to display, in a place accessible to employees and in a visually conspicuous manner, the notices of employees' right to receive the minimum wage and overtime pay as required under the FLSA and the NYLL. In addition, Defendants failed to display a copy of §§ 193 and 196-d of the NYLL regarding the prohibition on illegal deductions from wages and the illegality of employers demanding or accepting any portion of employees' tips.
- On information and belief, Defendants failed to keep full and accurate records of 42. Plaintiffs' hours and wages.
- In or about December 2007, Plaintiffs complained to Defendants about, among 43. other things, the failure to pay overtime for hours worked over forty per week.
 - In January 2008, Defendants terminated Plaintiffs' employment in retaliation for 44.

the complaints described in paragraph 43.

- 45. Defendants committed all of the acts and omissions alleged herein willfully.
- 46. All actions and omissions alleged herein were undertaken by Defendants either directly and/or through their agents.

FIRST CAUSE OF ACTION Minimum Wages Under the FLSA (Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie)

- Plaintiffs reallege and incorporate by reference all allegations in all preceding 47. paragraphs as if fully set forth herein.
- The Defendants willfully failed to pay Plaintiffs Ting Yao Lin, Mu Lei Xie, and 48. Ting Jia Xie the applicable minimum hourly wage for all hours worked, in violation of the FLSA, 29 U.S.C. § 206(a).
- 49. Defendants willfully required Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie to purchase and maintain bicycles as well as pay for other business expenses required for Defendants' work such that their compensation was driven below the minimum wage, in violation of the FLSA, 29 U.S.C. § 206(a) and 29 C.F.R. § 531.35.
- Accordingly, for the period between approximately January 2006 and January 50. 2008, Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie are entitled to recover from Defendants, jointly and severally, their unpaid minimum wages and an equal amount of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including postjudgment interest, pursuant to the FLSA, 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION Overtime Wages Under the FLSA (All Plaintiffs)

Plaintiffs reallege and incorporate by reference all allegations in all preceding 51. paragraphs as if fully set forth herein.

- 52. Defendants willfully failed to pay the Plaintiffs overtime wages at a rate at least one and one-half times the regular rate of pay for each hour worked in excess of forty hours per workweek, in violation of the FLSA, 29 U.S.C. § 207.
- Accordingly, for the period between approximately January 2006 and January 53. 2008, Plaintiffs are entitled to recover from Defendants, jointly and severally, their unpaid overtime wages and an equal amount of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including post-judgment interest, pursuant to the FLSA, 29 U.S.C. § 216(b).

THIRD CAUSE OF ACTION Minimum Wages Under the NYLL (Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie)

- 54. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.
- Defendants willfully failed to pay Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting 55. Jia Xie at the applicable minimum hourly wage, in violation of the NYLL § 652.
- Accordingly, for the period between approximately January 2006 and January 56. 2008, Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie are entitled to recover from Defendants, jointly and severally, their unpaid minimum wages and an amount equal to one quarter of their unpaid minimum wages in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including pre- and post-judgment interest, pursuant to the NYLL § 663(1).

FOURTH CAUSE OF ACTION Overtime Wages Under the NYLL (All Plaintiffs)

57. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.

- 58. Defendants willfully failed to pay Plaintiffs overtime wages at rates at least one and one-half times the regular rate of pay for each hour worked in excess of forty hours per week, in violation of the NYLL § 21(11) and N.Y. Comp. Codes R. & Regs. tit. 12, § 137-1.3.
- Accordingly, for the period between approximately January 2006 and January 59. 2008. Plaintiff's are entitled to recover from Defendants, jointly and severally, their unpaid overtime wages and an amount equal to one quarter of their unpaid overtime wages in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including pre- and post-judgment interest, pursuant to the NYLL § 663(1).

FIFTH CAUSE OF ACTION Unlawful Retention of Tips Under the NYLL (Plaintiffs Fang Lin and Sheng Lan Li)

- Plaintiffs reallege and incorporate by reference all allegations in all preceding 60. paragraphs as if fully set forth herein.
- Defendants willfully retained all or part of Plaintiffs Fang Lin and Sheng Lan Li's 61. tips, in violation of the NYLL § 196-d.
- Accordingly, for the period between approximately January 2006 and January 2008, 62. Plaintiffs Fang Lin and Sheng Lan Li are entitled to recover from Defendants, jointly and severally, damages in the amount of unlawfully retained tips and an amount equal to one quarter of their unlawfully retained tips in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including pre- and post-judgment interest, pursuant to the NYLL § 198.

SIXTH CAUSE OF ACTION Spread-of-Hours Pay Under the NYLL (All Plaintiffs)

- 63. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.
- 64. Defendants willfully failed to pay Plaintiffs spread-of-hours wages of an additional hour of pay at the minimum wage for each day Plaintiffs had a spread of hours in excess of ten hours per day, in violation of the NYLL § 21(11) and N.Y. Comp. Codes R. & Regs. tit. 12, § 137-1.6.
- 65. Accordingly, for the period between approximately January 2006 and January 2008, Plaintiffs are entitled to recover from Defendants, jointly and severally, damages in the amount of unpaid spread-of-hours wages and an amount equal to one quarter of their unpaid spread-of-hours wages in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including pre- and post-judgment interest, pursuant to the NYLL § 663(1).

SEVENTH CAUSE OF ACTION

Reimbursement for Required Expenses Under the NYLL (Plaintiffs Ting Yao Lin, Mu Lei Xie, Ting Jia Xie, Fang Lin and Sheng Lan Li)

- 66. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.
- 67. Defendants willfully made unauthorized deductions from Plaintiffs Ting Yao Lin, Mu Lei Xie, and Ting Jia Xie's wages and/or made these Plaintiffs incur expenses in carrying out their duties, by requiring them to purchase and maintain bicycles as well as pay for other business expenses required for Defendants' work, in violation of the NYLL § 193(1) and § 198-b and N.Y. Comp. Codes R. & Regs. tit. 12, § 137-2.5.

- 68. Defendants willfully made unauthorized deductions from Plaintiffs Fang Lin and Sheng Lan Li's wages and/or made these Plaintiffs incur expenses in carrying out their duties, by requiring them to maintain uniforms required for Defendants' work, in violation of the NYLL § 193(1) and § 198-b and N.Y. Comp. Codes R. & Regs. tit. 12, § 137-2.5.
- 69. Accordingly, for the period between approximately January 2006 and January 2008, Plaintiffs Ting Yao Lin, Mu Lei Xie, Ting Jia Xie, Fang Lin, and Sheng Lan Li are entitled to recover from Defendants, jointly and severally, their unauthorized deductions and an amount equal to one quarter of their unauthorized deductions in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including pre- and post-judgment interest, pursuant to the NYLL § 198.

EIGHTH CAUSE OF ACTION Retaliation under the NYLL (All Plaintiffs)

- 70. Plaintiffs reallege and incorporate by reference all allegations in all preceding paragraphs as if fully set forth herein.
- 71. Defendants willfully terminated Plaintiffs in retaliation for complaining about unlawful labor and employment practices, including but not limited to the failure to pay overtime as required by both the FLSA and the NYLL.
- 72. Plaintiffs' complaints were protected activities under the NYLL and there was a causal connection between Plaintiffs' protected activities and Defendants' adverse employment actions.
- 73. Accordingly, Plaintiffs are entitled to recover from Defendants, jointly and severally, nominal damages and punitive damages based upon Defendants' illegal retaliation, as well as reasonable attorneys' fees and costs of the action, including interest, pursuant to the NYLL § 215.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs respectfully request that judgment be granted:

- Declaring Defendants' conduct complained of herein to be in violation of a. Plaintiffs' rights under the FLSA and the NYLL;
- Awarding Plaintiffs unpaid minimum wages and unpaid overtime wages due under the FLSA and the NYLL;
- Awarding Plaintiffs compensation for tips unlawfully retained by Defendants under the NYLL:
 - Awarding Plaintiffs spread-of-hours wages due under the NYLL; d.
- ę. Awarding Plaintiffs compensation for all unauthorized deductions under the NYLL;
- Awarding Plaintiffs liquidated damages pursuant to 29 U.S.C. § 216(b) and the f. NYLL §§ 198(1-a), 663(1) due to Defendants' willful violation of federal and New York state law;
- Awarding Plaintiffs nominal damages and punitive damages due under the NYLL g. based upon Defendants' illegal retaliation against Plaintiffs for engaging in protected activities;
 - Awarding Plaintiffs pre- and post-judgment interest, where applicable; h.
- i. Awarding Plaintiffs the costs of this action, together with reasonable attorneys' fees; and
 - Granting such other and further relief as this Court deems necessary and proper. j.

Dated: New York, New York

July 2, 2008

Respectfully submitted,

PRO BONO COUNSEL

Robert Dunn (RD-1610)

Four Times Square New York, NY 10036

Telephone: 212-735-3000 Facsimile: 212-735-2000

URBAN JUSTICE CENTER

David Colodny (DC-4234) 123 William Street, 16th Floor New York, New York 10038 Telephone: 646-602-5600

Facsimile: 212-533-4598

Attorneys for Plaintiffs

Case 1:08-cv-06071-SAS Document 17-3 Filed 09/05/2008 Page 1 of 9

EXHIBIT B

Case 1:08-cv-06071-SAS Document 17-3 Filed 09/05/2008 Page 2 of 9 Affidavit of Service of Summons or Subpoena. Personal or Afternative Methods: Corp. or Ind.: Military Service, 10 pt, type, 1-95 C 1988 JULIUS BLUMBERG, INC., PUBLISHER, NYC 10013 COURT UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK COUNTY OF TIN YAO LIN, ET AL., Index No. 08 CIV 6071 AFFIDAVIT OF Plaintiff(s) against SERVICE OF SUMMONS (AND COMPLAINT) HAYASHI YA II, INC. D/B/A HAYASHI YA, ET AL., SÈE ATTACHED RIDER Defendant(s) STATE OF NEW YORK, COUNTY OF NEW YORK The undersigned, being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at SUNNYSIDE, NEW YORK That on 7/9/08 at 3:02 PM., at 857 NINTH AVENUE, NEW YORK, NEW YORK deponent served the within summons, and complaint on FENG LIN defendant therein named. SEE ATTACHED RIDER by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as DEDIVIDUAL 1. said defendant therein. CORPORATION corporation, by delivering thereat a true copy of each to 2 0 personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be thereof. SUITABLE AGE PERSON by delivering thereat a true copy of each to a person of suitable age s. 🔲 and discretion. Said premises is defendant's-actual place of business-dwelling place-usual place of abode-within the state. AFFORMS TO DOOR, ETC. by affixing a true copy of each to the door of said premises, which is defendant's-actual place of business-dwelling place-4. usual place of abode-within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion thereat, having called there MAILING TO Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to RESIDENCE USE WITH 3 OR 4 defendant at defendant's last known residence, at and deposited SA. said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. MAILING TO Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to defendant at defendant's actual place of business, at USE WITH 3 OR 4 58. O in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant. DESCRIPTION X Male White Skin X Black Hair ☐ White Hair ☐ 14-20 Yrs. ☐ Under 5' ☐ Under 100 Lbs. Female ☐ Black Skin X Brown Hair ☐ Balding 1 2 08 3 X 21-35 Yrs. ☐ 5'0"-5'3" 100-130 Lbs X X Yellow Skin ☐ Blonde Hair ☐ Mustache ☐ 36-50 Yrs. X 5'4"-5'8" X 131-160 Lbs. Brown Skin Gray Hair ☐ Beard ☐ 51-65 Yrs. ☐ 5'9"-6'0" ☐ 161-200 Lbs. Red Skin Red Hair ☐ Glasses Over 65 Yrs. Over 6' Over 200 Lbs. Other identifying features: USE 30 The words "CONSUMER CREDIT TRANSACTION" were prominently displayed at the top of the summons(es) and the additional MYC CIVIL CT. legend was printed in not less than 12 point bold upper case type on the summons(es) pursuant to 22 NYCRR §208.6(d) and (f). MISS IT A STY SERVICE

X

I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Recipient wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above parrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United States as that term is defined in either

the State or in the Federal statutes. HE YI WENG

Sworn to before me on

7/10/08

Notary Public, State of New York No. 01 WE6178606 Qualified in Kings County Commission Expires Dec. 03, 2011 CONG MANG 1220800 License No.

Xuy.

	NITED STATES DISTRICT COURT OUTHERN DISTRICT OF NEW YORK			
 T1	'N YAO LIN, ET AL.,	CASE NO. 08 CIV 6071		
	-against- AYASHI YA II, INC. D/B/A HAYASHI A, ET AL.,	RIDER TO AFFIDAVITOR OF SERVICE		
	X			
L	IST OF DOCUMENTS SERVED:			
-	SUMMONS IN A CIVIL ACTION			
-	COMPLAINT			
-	INDIVIDUAL RULES AND PROCEDURES OF SCHEINDLIN	JUDGE SHIRA A.		
-	ELECTRONIC CASE FILING RULES & INSTR	UCTIONS		

- INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE ANDREW J. PECK

Ca	se 1:08-cv-06071-SAS Document 17-3 Filed 09/05/2008 Page 4 of 9
Blumbergs Law Products	B 151— Affidavir of Service of Summons or Subpoons: Personal or Alternative Methods: Corp. or Incl. Military Service, 10 pt. type, 1-95 PUBLISHED, NYC 10013
COUNTY O	COURT UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK
TIN YAO I	IN, ET AL., Index No. 08 CIV 6071
HAYASHI Y	Plaintiff(s) AFFIDAVIT OF SERVICE OF SUMMONS (AND COMPLAINT) SEE ATTACHED RIDER Defendant(s)
party herein, in That on 7 / deponent serve	YORK, COUNTY OF NEW YORK SS: The undersigned, being duly sworn, deposes and says; deponent is not a sover 18 years of age and resides at SUNNYSIDE, NEW YORK 19/08 at 3:03 p.M., at 857 NINTH AVENUE, NEW YORK, NEW YORK defendant therein named, the within summons, and complaint on YANG QING CHED RIDER
SUPTABLE AGE PERSON 3. AFFORMS TO DOOR, ETC. 4.	by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as said defendant therein. a corporation, by delivering thereat a true copy of each to personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be thereof. by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is defendant's—actual place of business—dwelling place—usual place of abode—within the state. by affixing a true copy of each to the door of said premises, which is defendant's—actual place of business—dwelling place—usual place of abode—within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion thereat, having called there
MAILING TO RESIDENCE USE WITH 3 OR 4 SA	Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known residence, at and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to defendant at defendant's actual place of business, at in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant. Male White Skin Black Hair White Hair 14-20 Yrs. Under 5' Under 100 Lbs. Black Skin Brown Hair Balding 21-35 Yrs. 5'0".5'3" 100-130 Lbs. Yellow Skin Blonde Hair Mustache 36-50 Yrs. 5'4"-5'8" 131-160 Lbs. Brown Skin Gray Hair Beard 51-65 Yrs. 5'9"-6'0" 161-200 Lbs. Red Skin Red Hair Glasses Over 65 Yrs. Over 6' Over 200 Lbs. Other identifying features:
	legend was printed in not less than 12 point bold upper case type on the summons(es) pursuant to 22 NYCRR §208.6(d) and (f).

MILITARY X

I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Recipient wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United State as that term is defined in either the State or in the Federal statutes.

Sworn to before me on

7/10/08

HE YI WENG Notary Public, State of New York No. 01WE6178606

Qualified in Kings County Commission Expires Dec. 03, 2011 Sun Weny

1220800 License No.

DI CONG JIANG

	NITED STATES DISTRICT COURT OUTHERN DISTRICT OF NEW YORK				
 TI	N YAO LIN, ET AL.,	CASE NO. 08 CIV 6071			
	-against-	RIDER TO AFFIDAVIT			
	AYASHI YA II, INC. D/B/A HAYASHI A, ET AL.,	OF SERVICE			
	X				
Ll	ST OF DOCUMENTS SERVED:				
	SUMMONS IN A CIVIL ACTION				
-	COMPLAINT				
-	INDIVIDUAL RULES AND PROCEDURES OF SCHEINDLIN	JUDGE SHIRA A.			
-	ELECTRONIC CASE FILING RULES & INSTR	UCTIONS			

INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE ANDREW J. PECK

Blumbergs Law Products	B 15	51- AM Ma	idavit of thods: (Service of Sum Corp. or Ind.: Mill	mons or St littery Servi	abpoens. Personal or A ice, 10 pt. type, 1-95	Jeroso ve							PERLINGUISE, INC., PROP. NYC 10013
COUNTY O	F	C	COU		NITE	D STATES IERN DISTR	DIST	RICT COU	RT ORK					
TIN YAO I		ET Al	L.,							\ Inde	ex No.	08 CIV	607	1
HAYASHI Y	ZA II	, INC	C. 1	О/В/А Н	again IAYAS	ss: SHI YA, ET	r AL.	,	lainti	The second secon		SERVICE (AND C	OF COM	VIT OF SUMMONS APLAINT) ED RIDER
**************************************								Defi	endai	rt(s)				
STATE OF NEW party herein, is That on 7 / deponent serve SEE ATTAC	s over : 9/08 ed the s	18 years within s	s of a	ige and res	ides at at	4:40 PM. int on HAY	at 8	EW YORK 57 NINTH YA II,	AV	ENUE. NE	W YO	RK NEW	YOR	; deponent is not K lant therein name
MONTOLIAL 1. CORPORATION 2.	said d a D perso	lefenda OMESI nally, d	nt the FIC lepor	erein. ent knew	corposaid co	oration, by del orporation so s	ivering served t	thereat a true	е сор	y of each to	NIK	KI NI		erson described a
SUITABLE AGE PERSON 3. FFEDUNG TO DOOR, ETC. 4.	by de and d by afi usual	livering iscretio fixing a place o	ther n. Sa true of ab	eat a true c id premise copy <i>of ea</i>	copy of s is de ach to in the	fendant's—act the door of sai state. Deponer	tual pla	ises, which	ss—d is del	fendant's—a	ctual p	ial place of a	bode-	con of suitable ag within the state dwelling place on of suitable ag
MANLING TO RESIDENCE USE WITH 3 OR 4 SA. SA. SOME MANLING TO BUSINESS USE WITH 3 OR 4 SB. SA.	defend said e Within address in an of the le	dant at onvelope on 20 dans seed to official gend "1	defer in a ays o defer depo Perso	ndant's last in official d of such del indant at del sitory unde onal and C	know leposite livery fendan or the e	or residence, at ory under the e or affixing, de ot's actual place exclusive care a	exclusive eponent e of bus and cust I not in	e care and cu enclosed a iness, at ody of the U dicate on th	copy I.S. Pose out	of the U.S. of same in ostal Service side thereof.	Postal a first	Service withit class post p	n Ne	perly addressed to and deposited w York State. envelope properly The envelope bor otherwise, that the
DESCRIPTION USE WITH 1, 2, OR 3	□ M ☑ Fe	ale male		White Skir Black Skin Yellow Sk Brown Ski Red Skin features:	n P in C in C	Black Hair Brown Hair Blonde Hair Gray Hair Red Hair		White Hair Balding Mustache Beard Glasses	r	14-20 Yrs 21-35 Yrs 36-50 Yrs 51-65 Yrs Over 65 Y	. [. [X	Under 5' 5'0"-5'3" 5'4"-5'8" 5'9"-6'0" Over 6'		Under 100 Lbs. 100-130 Lbs. 131-160 Lbs. 161-200 Lbs. Over 200 Lbs.
WC CIVIL CT.	The w	ords "C I was pr	ONS rinted	SUMER CF in not less	REDIT than I	TRANSACTI	ON" we	ere prominent te type on the	ıtly di e sum	splayed at the mons(es) pur	e top o	f the summon to 22 NYCRF	s(es) 8 §20	and the additiona 8.6(d) and (f).
BALLITARY SERVICE	capaci my in belief	ty what formati I aver t	tever ion a that t	and received and the gro	ed a no ounds o ou is no	egative reply. I of my belief a	Recipies are the operation of	nt wore ordi	<i>nary</i> is and	civilian cloth dobservation	<i>ies and</i> ns abo	<i>l no military i</i> ve narrated.	<i>unifo</i> Upon	f New York in any rm. The source of information and s defined in either
Sworn to before	re me c	on		N		Public, State of	New Yo	rk	****		FRENT H	APS BEDGE AND ST	SMATI	URIS
7/10/0				Co	Qua	No. 01 W E61780 diffied in Kings (sion Expires De	County	ones sense s		(DI.	CONE JIA		1220800
						rug h	Ser	4						

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	
TIN YAO LIN, ET AL.,	CASE NO. 08 CIV 6071
-against- HAYASHI YA II, INC. D/B/A HAYASHI YA, ET AL.,	RIDER TO AFFIDAVIT OF SERVICE
X	
LIST OF DOCUMENTS SERVED:	
- SUMMONS IN A CIVIL ACTION	
- COMPLAINT	

- ELECTRONIC CASE FILING RULES & INSTRUCTIONS

SCHEINDLIN

- INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE ANDREW J. PECK

INDIVIDUAL RULES AND PROCEDURES OF JUDGE SHIRA A.

Blumbergs Law Products	Methods: Corp.	or Ind.: Military Service, 10 pt. type, 1-95	25C ve			Julius Blumburg, Inc., Uslisher, NYC 10013
	COURT	UNITED STATES D	TSTRICT COUR	т		
COUNTY O	Pi -	SOUTHERN DISTRI	CT OF NEW YO	ŘK		
TIN YAO I	IN, ET AL.,			Index	Vo. 08 CIV	6071
HAYASHI Y	A II. INC. D/	against B/A HAYASHI YA, ET		intiff(s)	SERVICE (AND C	DAVIT OF OF SUMMONS OMPLAINT) ACHED RIDER
	223 2110 27.	o/n minoni in, li		dant(s)	SEE AII	ACHED KIDEK
party herein, is That on 7 / deponent serve	9/08 od the within summon	and resides at SUNNYSIDE	, NEW YORK	AVENUE NEU	YORK, NEW	says; deponent is not YORK fendant therein names
SEE ATTAC	HED RIDER	D/B/A	HAYASHI YA N AYASHI YA, IN	N/K/A		
NDMOUAL	by delivering a true of said defendant therei	copy of each to said defendant	personally; deponer	nt knew the person	so served to be t	he person described a
CORPORATION 2. [X]	a DOMESTIC personally, deponent	corporation, by delive knew said corporation so set to be MANAGING AGENT	ved to be the corpo	copy of each to Noration described i	IIKKI NI n said summons	as said defendant and
SUITABLE AGE PERSON 3.		a true copy of each to premises is defendant's—actua	al place of business-	-dwelling place-	a usual place of ab-	person of suitable ago
FECUNIS TO DOOR, ETC.	by affixing a true co	py of each to the door of said —within the state. Deponent	premises, which is	defendant's-actu	al place of busin	ess—dwelling place—
MAILING TO RESIDENCE USE WITH 3 OR 4 SA. MAILING TO RUSINESS USE WITH 3 OR 4 SR.	defendant at defenda said envelope in an o Within 20 days of s addressed to defenda	uch delivery or affixing, depo nt's last known residence, at fficial depository under the exc uch delivery or affixing, depo nt at defendant's actual place of	lusive care and custo onent enclosed a co of business, at	ody of the U.S. Pos opy of same in a t	stal Service within	and deposited n New York State. aid envelope properly
3E. W	the legend "Personal	ory under the exclusive care and and Confidential" and did no from an attorney or concerned	ot indicate on the	outside thereof, by	thin New York St return address	ate. The envelope born or otherwise, that the
DESCRIPTION USE WITH 1, 2, OR 3	☐ Male ☐ Wh ☑ Female ☐ Bla ☑ Yel	ite Skin 🔼 Black Hair ck Skin 🗆 Brown Hair low Skin 🗀 Blonde Hair own Skin 🗀 Gray Hair i Skin 🗀 Red Hair	White Hair Balding Mustache Beard Glasses	☐ 14-20 Yrs. ☐ 21-35 Yrs. ☐ 36-50 Yrs. ☐ 51-65 Yrs. ☐ Over 65 Yrs.	☐ Under 5' ☐ 5'0"-5'3" ☒ 5'4"-5'8" ☐ 5'9"-6'0" ☐ Over 6'	☐ Under 100 Lbs. ☑ 100-130 Lbs. ☐ 131-160 Lbs. ☐ 161-200 Lbs. ☐ Over 200 Lbs.
USE IN NYC CIVIL CT.	The words "CONSUN legend was printed in	MER CREDIT TRANSACTION not less than 12 point bold upp	N" were prominently er case type on the si	displayed at the to ummons(es) pursua	p of the summon	s(es) and the additional §208.6(d) and (f).
MILITARY SERVICE	capacity whatever and my information and	oken to whether recipient was in d received a negative reply. Re the grounds of my belief are recipient is not in military serv deral statutes.	cipient wore ordinal the conversations a ice of New York Sta	ry civilian clothes and observations a	and no military u abovesnarrated. I	niform. The source of
Sworn to befor	e me on	Notary Public, State of N	New York	7/20	OI CONG JIM	MATURE
7/10/0	08	No. 01 WE61786 Qualified in Kings C Commission Expires Dec	ounty		License No.	1220800
		Slay W				

	STATES DISTRICT COURT ERN DISTRICT OF NEW YORK		
) LIN, ET AL.,	X CASE NO. 08 CIV 6071	
-against- HAYASHI YA II, INC. D/B/A HAYASHI YA, ET AL.,		RIDER TO AFFIDAVIT OF SERVICE	
			=======================================
LIST OF	DOCUMENTS SERVED:		
- SUM	MONS IN A CIVIL ACTION		
- COM	PLAINT		
	INDIVIDUAL RULES AND PROCEDURES OF JUDGE SHIRA A. SCHEINDLIN		
- ELEC	ELECTRONIC CASE FILING RULES & INSTRUCTIONS		

INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE ANDREW J. PECK

EXHIBIT C

SOUTHERN DISTRICT OF NEW YORK	- X
TING YAO LIN, FANG LIN, SHENG LAN LI, MU LEI XIE, TING JIA XIE, and XIE XIN YONG,	:
Plaintiffs,	08 Civ. 6071 (SAS)
v. HAYASHI YA II, INC. d/b/a HAYASHI YA, HAYASHI YA OF 9 AVENUE, LLC d/b/a HAYASHI YA, FENG LIN, and YANG QING, Defendants.	CLERK'S CERTIFICATE
	·X

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on July 2, 2008 with the filing of a summons and complaint and that a copy of the summons and complaint was properly served on Defendant Yang Qing on July 9, 2008 by personal service. Proof of such service thereof was filed on July 15, 2008.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise appeared with respect to the complaint herein. The default of the defendant is hereby noted.

Dated: New York, New York

J. MICHAEL MCMAHON
Clerk of the Court

Deputy Clerk

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK		
TING YAO LIN, FANG LIN, SHENG LAN LI, MU LEI XIE, TING JIA XIE, and XIE XIN YONG, Plaintiffs,	- X : : : :	08 Civ. 6071 (SAS)
v. HAYASHI YA II, INC. d/b/a HAYASHI YA, HAYASHI YA OF 9 AVENUE, LLC d/b/a HAYASHI YA, FENG LIN, and YANG QING, Defendants.	:	CLERK'S CERTIFICATE
	-X	

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on July 2, 2008 with the filing of a summons and complaint and that a copy of the summons and complaint was properly served on Defendant Feng Lin on July 9, 2008 by personal service. Proof of such service thereof was filed on July 15, 2008.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise appeared with respect to the complaint herein. The default of the defendant is hereby noted.

Dated: New York, New York

Aug 19, 2009

By:

Deputy Clerk

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	
TING YAO LIN, FANG LIN, SHENG LAN LI, MU LEI XIE, TING JIA XIE, and XIE XIN YONG, Plaintiffs,	: : : : : : : : : : : : : : : : : : :
r iaintiiis,	:
v. HAYASHI YA II, INC. d/b/a HAYASHI YA, HAYASHI YA OF 9 AVENUE, LLC d/b/a HAYASHI YA, FENG LIN, and YANG QING, Defendants.	CLERK'S CERTIFICATE
	: X

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on July 2, 2008 with the filing of a summons and complaint and that a copy of the summons and complaint was properly served on Defendant Hayashi Ya II, Inc., on July 9, 2008, by personal service on Nikki Ni, Managing Agent of Defendant Hayashi Ya II, Inc. Proof of such service thereof was filed on July 15, 2008.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise appeared with respect to the complaint herein. The default of the defendant is hereby noted.

Dated: New York, New York

A-9/9, 2-08

J. MICHAEL MCMAHON

Clerk of the Cour

Deputy Clerk

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	. X
TING YAO LIN, FANG LIN, SHENG LAN LI, MU LEI XIE, TING JIA XIE, and XIE XIN YONG,	:
Plaintiffs,	08 Civ. 6071 (SAS)
v. HAYASHI YA II, INC. d/b/a HAYASHI YA, HAYASHI YA OF 9 AVENUE, LLC d/b/a HAYASHI YA, FENG LIN, and YANG QING, Defendants.	CLERK'S CERTIFICATE CLERK'S CERTIFICATE
	·X

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on July 2, 2008 with the filing of a summons and complaint and that a copy of the summons and complaint was properly served on Defendant Hayashi Ya of 9 Avenue, LLC on July 9, 2008, by personal service on Nikki Ni, Managing Agent of Defendant Hayashi Ya of 9 Avenue, LLC. Proof of such service thereof was filed on July 15, 2008.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise appeared with respect to the complaint herein. The default of the defendant is hereby noted.

Dated: New York, New York

J. MICHAEL MCMAHON

By: _____

Deputy Clerk